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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,444	04/06/2001	Curt V. Avallone	21631-0009	6897
26587 7590 04/02/2009 MCNEES WALLACE & NURICK LLC 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166				
EXAMINER				
ELISCA, PIERRE E				
ART UNIT		PAPER NUMBER		
3621				
MAIL DATE		DELIVERY MODE		
04/02/2009		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/828,444
Filing Date: April 06, 2001
Appellant(s): AVALLONE ET AL.

Brian T. Sattizahn
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/31/2007 appealing from the Office action mailed 11/02/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

NEW GROUND(S) OF REJECTION

New ground of rejection is made for claims 81 and 82.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US PG Pub 2002/0062251	Anandan et al	05/2002
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U.S. pat. No. 6,405,049	Herrod et al	06/2002
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anandan et al. (U.S. PG Pub No. 2002/0062251) in view of Herrod et al (U.S. Patent 6,405,049).

As per claims 44 and 68, Anandan et al teach a system (*fig 1*) for providing personalized information (*targeted electronic communication*) to a user (*Panel member, 700*) in a commercial establishment, the system comprising at least one database storing information related to a user, a portable display unit operated by a user in a commercial establishment, the portable display unit having a unique identifier, and the portable display unit comprising a transceiver at least one database, a user interface, a display screen, a microprocessor, and at least one program executable by the microprocessor to enable the portable display unit to receive, store, and display information to a user in a commercial establishment a location tracking system to determine a location of the portable display unit in a commercial establishment, a server

computer the server computer being in communication with the location tracking system and the at least one database and the server computer being configured to generate personalized information for a user in a commercial establishment based on the location of the portable display unit and the information related to a user stored in the at least one database; and at least one transceiver in communication with the server computer for transmitting the personalized information generated by the server computer to the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*). Amanda et al fail to teach an inventive concept of providing a plurality of portable display units for use by a plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information. However, Herrod et al teaches plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information (*see column 10 lines 25-11 lines 3*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify inventive concept of Anandan et al to include Herrod et al's plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information because this would have ensured on the spot communication between the user and the commercial establishment.

As per claims 45, 71, Anandan et al teach a system for providing personalized information wherein the portable display unit comprises a user identification system to determine an identity of a user operating the portable display unit; and the server computer is configured to generate personalized information for an identified user based on the location of the portable display unit, the identity of the user and the information related to a user stored in the at least one database (*see abstract, paragraphs 0003, 0007, 0009, 0011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 46, 74, Anandan et al teach a system for providing personalized information wherein the information related to a user includes at least one of a demographic profile of the identified user and a shopping history of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 47, 72, Anandan et al teach a system for providing personalized information wherein the user identification system comprises a substrate reader, and the substrate reader is configured to obtain identifying information on the user from a loyalty card provided to the substrate reader by the user (*see paragraphs 0032, 0033*).

As per claims 48, 73, Anandan et al teach a system for providing personalized information wherein the user identification system includes the user interface of the

portable display unit, the user interface being configured for a user to enter a personal identification number and associated password into the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 49, 76, Anandan et al teach a system for providing personalized information wherein the personalized information includes a personalized shopping list (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 50, 77, Anandan et al teach a system for providing personalized information wherein the personalized information further includes information on products on the personalized shopping list that are located in proximity to the location of the portable display unit (*see paragraphs 0032, 0033*).

As per claims 51, 75, Anandan et al teach a system for providing personalized information wherein the information related to a user further includes at least one selected from a group consisting of targeted advertisements, health information, nutritional information, promotional offers, offers on sale items, offers on discounted items, information on similar or associated items, manufacturer's coupons, storewide coupons, information on user specific favorite items, and information on user specific

staple items (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 52, Anandan et al teach a system for providing personalized information wherein the information related to a user includes the demographic profile of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 53, Anandan et al teach a system for providing personalized information wherein the demographic profile of the identified user is determined from a questionnaire completed by the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 54, Anandan et al teach a system for providing personalized information wherein the information related to a user includes a shopping history of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 55 and 69, Anandan et al teach a system for providing personalized information wherein the location tracking system further comprises at least one receiver for receiving a unique identifier transmitted by the portable display unit, a position

calculating system for calculating position data relating to a location of the portable display unit in a commercial establishment using the unique identifier of the portable display unit received by the at least one receiver; and at least one controller for transmitting position data relating to the location of the portable display unit generated by the position calculating system to the server computer (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 56 and 70, Anandan et al teach a system for providing personalized information wherein the position calculating system calculates the position data relating to the location of the portable display unit in a commercial establishment by at least one of biangulation techniques or triangulation techniques (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 57, Anandan et al teach a system for providing personalized information wherein the unique identifier of the portable display unit includes a radio frequency (RF) identification signal (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 58, Anandan et al teach a system for providing personalized information wherein the unique identifier of the portable display unit includes an infrared

identification signal (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 59, Anandan et al teach a system for providing personalized information wherein the at least one receiver includes a plurality of transponders located at discrete locations throughout a commercial establishment (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 60, Anandan et al teach a system for providing personalized information wherein the wherein the at least one receiver includes a plurality of transceivers located at discrete locations throughout a commercial establishment (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 61, Anandan et al teach a system for providing personalized information wherein the at least one transceiver includes a plurality of transceivers located at discrete locations throughout a commercial establishment (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 62, Anandan et al teach a system for providing personalized information wherein the portable display unit comprises a scanning device and the scanning device is configured to read product barcodes scanned by the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 63, 78, Anandan et al teach a system for providing personalized information wherein the at least one transmitter transmits the personalized information to the portable display unit using a wireless local area net (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 64, 79, Anandan et al teach a system for providing personalized information wherein the portable display unit further includes a microphone and a speaker, the server computer is configured to generate audio signals incorporating the personalized information for a user; and the microprocessor of the portable display unit is configured to play on the speaker the audio signals incorporating the personalized information (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 65, 80, Anandan et al teach a system for providing personalized information wherein the at least one transceiver transmits the personalized information

to the portable display unit as a web page using hypertext markup language (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 66, Anandan et al teach a system for providing personalized information wherein the server computer is configured to permit a user to access the Internet using the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claim 67, Anandan et al teach a system for providing personalized information wherein the transceiver of the portable display unit and the at least one transceiver are wirelessly connected to permit two-way communication between the portable display unit and the server computer (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

As per claims 81 and 82, Anandan et al teach a system (*fig 1*) for providing personalized information (*targeted electronic communication*) to a user (*Panel member, 700*) in a commercial establishment, the system comprising at least one database storing information related to a user, a portable display unit operated by a user in a commercial establishment, the portable display unit having a unique identifier, and the portable display unit comprising a transceiver at least one database, a user interface, a display screen, a microprocessor, and at least one program executable by the

microprocessor to enable the portable display unit to receive, store, and display information to a user in a commercial establishment a location tracking system to determine a location of the portable display unit in a commercial establishment, a server computer the server computer being in communication with the location tracking system and the at least one database and the server computer being configured to generate personal shopping list for a user using the demographic information, personal shopping history information and purchasing preferences information of a user stored in the at least one database, and the server computer being configured to generate personalized information for a user associated with products for purchase proximate to a location of the user in a commercial establishment based on the location of the portable display unit and the information related to a user stored in the at least one database; and at least one transceiver in communication with the server computer for transmitting the personalized information generated by the server computer to the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*). Amanda et al fail to teach an inventive concept of providing a plurality of portable display units for use by a plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information. However, Herrod et al teaches plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information (*see column 10 lines 25-11 lines 3*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify inventive

concept of Anandan et al to include Herrod et al's plurality of users in a commercial establishment and activating by a user a portable unit to operate in a commercial establishment by providing identifying information because this would have ensured on the spot communication between the user and the commercial establishment.

(10) Response to Argument

a. Applicant argues that the failure of the Examiner to examine or address claims 81 and 82, which claims have not been rejected nor allowed by the examiner. However, the rejection of claims 81 and 82 is hereby provided above.

b. Applicant continues to argue that Examiner improperly combined the disclosure of Herod and Amandan. And that there is not teaching or suggestion that would indicate the desirability of incorporating into Amandan the plurality of terminal from Herod. Examiner respectfully disagrees with Applicant's characterization of the combined prior arts. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case Amandan's invention is directed to a system and method for communicating with consumers using wireless technologies. Herod's invention relates to a data processing system comprising

a portable terminal and a terminal mount wherein the mount includes a terminal interface and processor capability for processing data received from the terminal and the terminal includes a user interface, a mount interface and processor capability sufficient only to relay user input to the mount for processing and data from the mount to the user interface. Amandan and Herrod's inventions are in the same environment and complement each other and that their combination is not improper as Applicant argue.

c. Applicant also argues that claim 48 recites a user identification system includes the user interface of a corresponding portable display unit. As indicated above, it is believed that Anandan discloses this limitation in paragraph [0026], [0027], [0037], [0043], and [0062].

d. Applicant further argues that the prior art of record fail to teach the limitation of calculating the location of the portable display unit in a commercial establishment... The Examiner respectfully disagrees with this assertion since Anandan discloses this limitation in paragraph [0026], [0043],[0062],[0065], and abstract, specifically wherein said the location tracking technology may also be installed throughout a consumer business premises in order to track (or calculate) consumer movement and location within the premises. Upon entering or exiting the premises of a participating consumer business, a participating consumer receives an electronic survey, sent either to a wireless portable device or the consumer's personal computer, or both.

e. "personalized shopping list". As noted above, Anandan discloses this limitation in paragraph [0003], (shopping behavior and preferences or shopping list), [0005] and [0007], shopping habits.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Pierre Eddy Elisca/
Primary Examiner

Conferees:

/A. J. F./
Supervisory Patent Examiner, Art Unit 3621

/C.L.H./
Calvin L Hewitt II
Supervisory Patent Examiner, Art Unit 3685